

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KENNETH HORNER,

Petitioner,

v.

**CASE NO. 2:20-CV-6118
JUDGE EDMUND A. SARGUS, JR.
Chief Magistrate Judge Elizabeth P. Deavers**

**WARDEN, BELMONT
CORRECTIONAL INSTITUTION,**

Respondent.

ORDER

On December 7, 2020, the Magistrate Judge issued a Report and Recommendation recommending that the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be dismissed without prejudice as unexhausted. (ECF No. 2.) Although the parties were advised of the right to file objections to the Magistrate Judge's Report and Recommendation, and of the consequences of failing to do so, no objections have been filed.

The Report and Recommendation (ECF No. 2) is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED** without prejudice as unexhausted.

Petitioner has waived the right to appeal by failing to file objections. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The Court therefore **DECLINES** to issue a certificate of appealability.

IT IS SO ORDERED.

s/Edmund A. Sargus, Jr. 12/28/2020
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE